

BOARD OF DESIGN REVIEW MINUTES

November 14, 2002

CALL TO ORDER: Chairman Stewart Straus called the meeting to order at 6:33 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive

ROLL CALL: Present were Chairman Stewart Straus; Board Members Cecilia Antonio, Hal Beighley, Ronald Nardoza, and Jennifer Shipley. Board Member Mimi Doukas was excused.

Development Services Manager Steven Sparks, AICP, Senior Planner John Osterberg, Associate Planner Scott Whyte, Associate Planner Liz Shotwell, Assistant City Attorney Ted Naemura, and Recording Secretary Sandra Pearson represented staff.

VISITORS:

Chairman Straus read the format for the meeting and asked if any member of the audience wished to address the Board on any non-agenda item. There was no response.

STAFF COMMUNICATION:

Senior Planner John Osterberg indicated that there were no staff communications.

OLD BUSINESS:

CONTINUANCES:

Chairman Straus opened the Public Hearing and read the format of the hearing. There were no disqualifications of Board Members. No one in the audience challenged the right of any Board Member to hear any agenda items or participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda.

A. BDR 2002-0147 – KUNI AUTOMOTIVE DESIGN REVIEW

The applicant, Kuni Automotive, requests Design Review approval to construct a two story 58,438 square foot building intended for automobile sales and service as part of the Kuni Automotive development plan. The subject properties can be specifically identified as Tax Lots 2100, 2300, 2401, 2500, 2600 and 2700 on Washington County Assessor's Map 1S1-10DD. Tax Lots 2100, 2300, 2401 and

2500 are zoned General Commercial (GC) while Tax Lots 2600 and 2700 are zoned Community Service (CS). Together the subject properties total approximately 4.24 acres in size. A decision for action on the proposed Design Review request shall be based upon the Design Review approval criteria as listed in Development Code Section 40.10.15.3.C.

Observing that he is a member of the design team for Kuni Automotive, Mr. Beighley recused himself from participating on this issue and stepped down from the dais.

Associate Planner Scott Whyte presented the Staff Report, discussed the Design Review application, and identified several actions associated with this application listed on page 5 of the Staff Report, including an application for a zone change, which was approved by the Planning Commission on October 9, 2002, adding that this action was not appealed and would be presented to the City Council. He explained that two Conditional Use applications are also associated with this project, specifically with regard to Major Automotive Service and extended hours of operation, observing that these applications had also received the approval of the Planning Commission on October 9, 2002. He briefly described the proposed development, noting that although the Agenda references phasing of this project, there would be no phasing with regard to this development which has been scaled down from the original plan.

Mr. Whyte mentioned that staff has been concerned with several remaining issues with regard to this proposal, expressing his opinion that these issues are close to being resolved. He briefly discussed these issues, including tree preservation and a required CMU block wall along the property line, observing that the applicant has indicated that the construction of this wall would create a significant amount of disturbance along the root zone of the trees. He pointed out that the applicant has responded to staff's request to explore some potential alternatives for the construction of the wall, and distributed copies of a handout detailing an alternative provided by the applicant. He mentioned that the Arborist's Report had been submitted today, noting that this document indicates a favorable review of this alternative plan. He distributed photographs of the site for review, reiterating that these issues are close to being resolved. Referring to landscaping along the site frontage, he pointed out that in response to criterion "g", staff has proposed a Condition of Approval requiring the applicant to modify the landscape plan to require an additional row of the Boxwood Hedge, adding that this is at the request of the Planning Director. Observing that two frontages are involved (SW Canyon Road and SW 110th Avenue), he explained that the landscape plan includes a row of Boxwood Hedge along both frontages, as well as a large turf area. He noted that there is a tendency for these auto dealerships to display automobiles along site frontages within landscape areas, emphasizing that there has been an issue with enforcement, adding that the Planning Director had requested some vegetation other than turf, specifically vegetation that would discourage the placement of automobiles along this frontage. He explained that

rather than staff's suggested Boxwood Hedge, the applicant has proposed other changes to the frontage that would achieve the Planning Director's goal of discouraging the placement of automobiles along the frontage area.

Mr. Whyte pointed out that the proposal meets criterion "h", which addresses lighting, observing that the proposed lighting must be appropriate for the use and must not adversely impact the surrounding properties. He discussed Condition of Approval No. 13, which addresses tree preservation measures, and Conditions of Approval Nos. 19 and 20, which require approval of the zone change and conditional uses by the City Council. Referring to Conditions of Approval Nos. 24 and 25, which address consolidation and easement with regard to this site, he pointed out that while a Variance might become necessary at some point, this is not an issue for consideration at this time. Concluding, he recommended approval of the application, with certain Conditions of Approval, and offered to respond to questions.

Chairman Straus requested clarification of whether Conditions of Approval Nos. 19 and 20 have been satisfied through the recent action of the Planning Commission.

Observing that the Planning Commission had taken action to approve the Conditional Uses and Rezone, Mr. Whyte pointed out that he anticipates that the City Council would take action for final approval soon, adding that no appeal had been received.

Chairman Straus noted that it is necessary to retain these Conditions of Approval because the City Council has not yet taken action on these issues. Referring to Condition of Approval No. 21, he requested clarification of whether the intent is to identify employee and customer parking separate from the parking that is utilized for display purposes.

Mr. Whyte explained that Sheet A-1.0, dated October 24, 2002, delineates between the storage parking and that to be utilized by employees and customers, expressing his opinion that Condition of Approval No. 21 provides the applicant with some flexibility.

Chairman Straus pointed out that the display of vehicles for sale should be limited to a certain portion of the site, expressing his opinion that there should be some simpler method to clarify this without specifically marking every single space.

Mr. Whyte emphasized that this issue involves the nature of the use, observing that because there have been enforcement problems involving other dealerships, staff is attempting to properly address this issue before it becomes a problem.

Referring to Condition of Approval No. 22, Chairman Straus noted that all non-conforming signs shall be removed from the site area prior to issuance of a

building permit. He questioned what type of non-conforming signs are involved and why they would not be part of the demolition plan with regard to what is currently on the site.

Observing that staff is unable to make that assumption, Mr. Whyte noted that this Condition of Approval references a large advertising sign that is currently located on the site.

Chairman Straus questioned why it would be necessary to remove this sign prior to issuance of the building permit, expressing his opinion that this could occur during the other demolition work associated with the site.

Mr. Whyte concurred that while this sign could also be removed in conjunction with other demolition work, it might be appropriate to structure the Condition of Approval to indicate that this must occur prior to issuance of the Building Permit.

Chairman Straus noted that a Building Permit and Site Development Permit are often processed concurrently, emphasizing that this does not necessarily occur sequentially. He expressed his opinion that this should occur prior to issuance of the Occupancy Permit, rather than the Building Permit.

Mr. Osterberg mentioned that revising this Condition of Approval to indicate prior to issuance of the Occupancy Permit, rather than the Building Permit would be a reasonable alternative.

Referring to Condition of Approval No. 23, Chairman Straus requested clarification of the rationale for requiring that the finished grades for the two circular pavement areas shown for the purpose of auto display along the SW Canyon Road frontage shall match the height of the finished grade shown for the adjacent paved surface within the site.

Mr. Whyte advised Chairman Straus that this condition involves a slight adjustment of the plan.

Mr. Straus pointed out that this Condition of Approval would not prevent the applicant from installing some type of elevated structure on top of the ground for a car to be driven up onto, expressing his opinion that a nicely-landscaped elevated grade would be more attractive than some type of steel utilitarian structure over which the Board has no control. He noted that imposing strict controls could result in a feature that is less desirable or attractive than the parking issue staff is attempting to avoid.

Mr. Whyte responded that this circular area is not a significant elevation and is only one to two feet higher than the surrounding pavement, adding that staff is willing to eliminate this Condition of Approval if this is the desire of the Board.

APPLICANT:

JERRY BAYSINGER, representing *CSCB Architects PC*, on behalf of the *Kuni Automotive*, introduced himself and other members of the design team, as follows: Hal Beighley, Landscape Architect representing *Beighley & Associates, Inc.*; and Geraldine Moyle, Planner/Consultant representing *Group MacKenzie*. He mentioned that other members are also available to respond to questions, including Brian Freeman, Engineer representing *Group MacKenzie*; Kristin Udvari, Attorney representing *Ball Janik*; and Greg Goodwin, Chief Executive Officer representing *Kuni Automotive*. He provided a brief description and provided illustrations of the site and plans, including plans to differentiate between employee, customer, and service parking and that parking to be utilized for display and storage purposes, and described the specific design issues discussed in the staff report. He explained the specific procedures that would be utilized in the servicing and repair of vehicles, including the extended hours of operation that had been approved by the Planning Commission, adding that these extended hours provide for a second shift, eliminating the need for additional bays. He discussed the color scheme and materials, site lighting, landscaping, and the Arborist's Report, which references concern with trees at the north end of the site, adding that all of the existing larger trees would be preserved and the Pear Tree removed and replaced with a Bowall Maple Tree. He discussed several controversial issues, including staff's suggestion to add a Boxwood Hedge at the back of the sidewalk, adding that the applicant has already created a great area for the display of vehicles and has no intention of displaying vehicles elsewhere beyond where this has been allowed. He agreed with Chairman Straus' recommendation that the applicant avoid the utilization of a mechanized device for the purpose of elevating vehicles for display, adding that they would prefer to elevate the corner of the parking lot in order to enhance their display area.

GERALDINE MOYLE, Planner/Consultant representing *Group MacKenzie*, described and expressed appreciation of the efforts of staff and the design team on behalf of this process, adding that she would like to review proposed revisions to the Conditions of Approval recommended by staff. She proposed that Condition of Approval No. 13 be revised, as follows: "No grading **except as shown on the approved plan** shall occur within ten feet of the trees identified for preservation on the approved site plan." She requested that Condition of Approval No. 18 be removed and replaced with the landscaping as shown on the recently discussed landscaping plan. Referring to Condition of Approval No. 22, she concurred with the revision proposed by Chairman Straus and staff with regard to removal of the non-conforming signs prior to occupancy, rather than issuance of a Building Permit, adding that the applicant would also agree to the elimination of Condition of Approval No. 23. Concluding, she offered to respond to questions.

PUBLIC TESTIMONY:

No member of the public testified with regard to this application.

Mr. Whyte pointed out that the applicant had identified that the existing Pear Tree shown on the landscape plan would be removed and replaced with a Bowall Maple Tree, noting that this should be specified within the Conditions of Approval. He mentioned that it would also be necessary to include a Condition of Approval that recognizes the CMU wall bridge detail and footing details, adding that staff is agreeable to proposed revisions to Conditions of Approval No. 13, 18, and 22 and elimination of Condition of Approval No. 23.

The public portion of the Public Hearing was closed.

Chairman Straus summarized the proposed revisions and additions to the Conditions of Approval, as follows:

13. No grading **except as shown on the approved plan** shall occur within ten feet of the trees identified for preservation on the approved site plan.
18. ~~Along the site frontage of SW Canyon Road and SW 110th Avenue, next to or within close proximity to the sidewalk improvement where shown, the applicant shall provide one additional row of the boxwood hedge matching the spacing as shown for the row of boxwoods adjacent to the area of auto display. A revised landscape plan illustrating the additional row of boxwood hedge per street frontage shall be part of the building permit plan set approved by the City.~~ **The landscaping shall be as shown on the plan Drawing L1-0, dated 11/14/02, submitted at the hearing.**
22. Pursuant to Section 60.30.45.2.C of the Development Code, all non-conforming signs shall be removed from the site area ~~prior to issuance of a building~~ **removed as part of the demolition** permit for construction of the Kuni Automotive sales and service building. Non-conforming signs include the sign identified as Tax Lot 2300A1 on Washington County Tax Assessor's Map 1S1-10DD.
23. ~~Finished grades for the two circular pavement areas shown for the purpose of auto display along the SW Canyon Road frontage shall match the height of the finished grade shown for the adjacent paved surface within the site. Sheet C-3.0 of the approved site plan shall be revised accordingly to show the circular pavement area, proposed at 211 feet, reduced to match the grade shown for the adjacent parking lot and display area.~~
26. The Pear Tree shown on Landscape Plan L1-0 is removed and replaced with a Bowall Maple Tree.

27. The concrete CMU wall footing detail at the existing group of trees as submitted at the hearing is accepted as a substitute for the original proposal.

Mr. Nardozza **MOVED** and Ms. Shipley **SECONDED** a motion for the approval of BDR 2002-0147 – Kuni Automotive Design Review, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated November 7, 2002, including Conditions of Approval Nos. through 26, with certain modifications, as follows:

13. No grading **except as shown on the approved plan** shall occur within ten feet of the trees identified for preservation on the approved site plan. The plans approved for site development shall identify the location of protective fencing at least ten feet from the base of all trees to be preserved. The fence shall be chain-link and shall remain in place through the period of site grading and all site construction thereafter. Construction of the CMU wall footings where shown in proximity to the six fir trees to be preserved along the east property line shall be supervised by a licensed arborist to minimize impact to the root system of these trees.
18. ~~Along the site frontage of SW Canyon Road and SW 110th Avenue, next to or within close proximity to the sidewalk improvement where shown, the applicant shall provide one additional row of the boxwood hedge matching the spacing as shown for the row of boxwoods adjacent to the area of auto display. A revised landscape plan illustrating the additional row of boxwood hedge per street frontage shall be part of the building permit plan set approved by the City.~~ **The landscaping shall be as shown on the plan Drawing L1-0, dated 11/14/02, submitted at the hearing.**
24. Pursuant to Section 60.30.45.2.C of the Development Code, all non-conforming signs shall be removed from the site area ~~prior to issuance of a building~~ **removed as part of the demolition** permit for construction of the Kuni Automotive sales and service building. Non-conforming signs include the sign identified as Tax Lot 2300A1 on Washington County Tax Assessor's Map 1S1-10DD.
25. ~~Finished grades for the two circular pavement areas shown for the purpose of auto display along the SW Canyon Road frontage shall match the height of the finished grade shown for the adjacent paved surface within the site. Sheet C 3.0 of the approved site plan shall be revised accordingly to show the circular pavement area, proposed at 211 feet, reduced to match the grade shown for the adjacent parking lot and display area.~~

adding that the removal of Condition of Approval No. 23 revises the order of numbering, and including additional Conditions of Approval, as follows:

28. The Pear Tree shown on Landscape Plan L1-0 is removed and replaced with a Bowall Maple Tree.
29. The concrete CMU wall footing detail at the existing group of trees as submitted at the hearing is accepted as a substitute for the original proposal.

The question was called and the motion **CARRIED** by the following vote:

AYES: Antonio, Nardozza, Shipley and Straus.
NAYS: None.
ABSTAIN: Beighley.
ABSENT: Doukas.

Development Services Manager Steven Sparks advised the applicant that a copy of all presentation materials should be submitted as part of the record.

8:11 p.m. – Mr. Beighley returned to the dais.

NEW BUSINESS:

PUBLIC HEARINGS:

A. BDR 2002-0124 – US BANK AT SW BEAVERTON/HILLSDALE HIGHWAY AND SW LAURELWOOD AVENUE

The applicant requests Type 3 Design Review approval for proposed development of the subject site for the construction of a new bank building and associated improvements. The building is proposed as one level, approximately 3,043 square feet in size, with two drive-up teller lanes on the western side of the building. The applicant proposes ingress/egress along SW Laurelwood Avenue and a new right-hand turn lane along the subject site's eastern property line, within the SW Laurelwood Avenue right-of-way and proposed dedication area, on the north side of the intersection with SW Beaverton/Hillsdale Highway. The development proposal is generally located at the northwest corner of the intersection of SW Laurelwood Avenue and SW Beaverton/Hillsdale Highway, and is more specifically described as Tax Lot 06600 on Washington County Assessor's Map 1S1-13BB. The affected parcel is zoned Office Commercial (OC) and is approximately 0.80 acres in size. A decision for action shall be based upon the approval criteria listed in Development Code Section 40.10.15.3.C.

Beighley **MOVED** and Nardoza **SECONDED** a motion that BDR 2002-0124 – US Bank at SW Beaverton/Hillsdale Highway and SW Laurelwood Avenue be continued to a date certain of December 5, 2002.

The question was called and the motion **CARRIED**, unanimously.

B. BDR 2002-0052 -- GALLOWAY DENTAL CLINIC BUILDING TYPE 3 DESIGN REVIEW

This land use applications have been submitted for the development of the subject site with a new building and associated site improvements for a dental clinic and general office use. The proposal includes the removal of the existing on-site structure and construction of a two-story building, approximately 1800 square feet in size. The development proposal is generally located on the north side of SW Allen Boulevard, west of SW Lombard Avenue, at 12075 SW Allen Boulevard, and is more specifically described as Tax Lot 13500 of Washington County Assessor's Map 1S1-15CC. The site is zoned Neighborhood Service Center (NS) and is approximately 0.18 acres in size. A decision for action shall be based upon the approval criteria listed in Development Code Section 40.10.15.3.C.

Mr. Whyte presented the Staff Report and observed that the applicant had withdrawn the associated request for a Variance. He briefly described the request for design review approval for a new dental clinic and office building and submitted plans and materials sample board. Concluding, he recommended approval of the application, with certain Conditions of Approval, and offered to respond to questions.

APPLICANT:

KENNETH BARTUS, Landscape Contractor representing Thomas M. Sears of *RCM Construction* who represents and submitted the original drawings for the applicant, John Galloway, introduced himself, the designer, Jim Nate, designer, Dr. John Galloway, who is the applicant, and his wife. Observing that he is responsible for all of the landscaping for *RCM Construction*, he pointed out that he has designed the landscaping for 32 medical clinics. He explained that all applicable criterion for landscaping requirements has been met and exceeded, adding that the applicant concurs with the proposed Conditions of Approval with the exception of an incorrect number of trees involving a landscape revision with a new setback, resulting in an additional tree.

JIM NATE, Designer, for Thomas Sears, pointed out that following a review of the Staff Report, the application appears to be in compliance with all applicable criterion, with the exception of the wall-mounted light fixture on the north, which needs to be shielded.

Pointing out that it appears that the applicant is relying upon public sidewalks as a means of getting from the handicapped parking space to the front door of the building, Chairman Straus noted that he is not certain that this is considered acceptable with regard to the Building Code. He explained that while this varies between different jurisdictions, it has been his experience that this accessible route is generally required to be provided within the site, adding that there are options for addressing such issues.

Ms. Shipley referred to parking spaces 6, 7, and 8, observing that there does not appear to be any wheel stops or curbs to keep the vehicles back from the building face.

Mr. Bartus indicated that these particular parking spaces are located beneath a second story structure, adding that these spaces are totally hidden from view.

Chairman Straus clarified that Ms. Shipley had been attempting to determine what would prevent a vehicle from driving into the wall of the building, and suggested the installation of some type of curbing to address this issue.

Mr. Bartus agreed that it would be possible to install a curb at the back of those particular parking spaces.

PUBLIC TESTIMONY:

No member of the public testified with regard to this application.

Staff had no further comments with regard to this application.

The public portion of the Public Hearing was closed.

On question, Mr. Whyte advised that because the Variance application has been withdrawn and recognized and is now part of the public record no motion is necessary with regard to this request.

Mr. Beighley **MOVED** and Mr. Nardozza **SECONDED** a motion for the approval of BDR 2002-0052– Galloway Dental Clinic and Office Building Design Review, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated November 7, 2002, including Conditions of Approval Nos. 1 through 13, with an additional Condition of Approval, as follows:

19. Add wheel stop/slash curbs to control parking at Stall Nos. 6, 7 and 8.

Motion **CARRIED** by the following vote:

AYES: Antonio, Beighley, Nardozza, Shipley and Straus.
NAYS: None.
ABSTAIN: None.
ABSENT: Doukas.

8:28 p.m. – Mr. Nardozza and Mr. Whyte left.

8:28 p.m. to 8:36 p.m. – break.

C. CEDAR HILLS CROSSING ENTRY SIGNS

This land use application has been submitted for freestanding signage upon two individual structures, one of which is proposed at the north entry and one at the south entry of the mall as approved by BDR 2002-0002 – Cedar Hills Crossing. The subject site, formerly known as Beaverton Mall, is located at 3205 SW Cedar Hills Boulevard, is generally located on the west side of SW Cedar Hills Boulevard, south of SW Jenkins Road, and north of SW Dawson Way, and is more specifically described as Tax Lot 00200 on Washington County Assessor's Map 1S1-09. The affected parcel is zoned Community Service (CS) and is approximately 36.0 acres in size.

1. VAR 2002-0005 – CEDAR HILLS CROSSING ENTRY SIGNS VARIANCE – SIZE

The applicant requests Sign Variance approval for placement of freestanding signage that will exceed the size allowance for freestanding signs within the zoning designation of the subject site. The subject site is located within the CS zoning designation, which allows for placement of a limited number of freestanding signs with up to 32 square feet per face in size. The applicant has proposed freestanding signage at 192 square feet per face (one-sided) for the purpose of identifying the main entries to the shopping center. A decision for action on the proposed development shall be based upon the approval criteria listed in Development Code Section 40.80.15.4.C.

2. VAR 2002-0009 – CEDAR HILLS CROSSING ENTRY SIGNS VARIANCE – HEIGHT

The applicant requests Sign Variance approval for placement of freestanding signage that will exceed the maximum height allowance for freestanding signs within the zoning designation of the subject site. The subject site is located within the CS zoning designation, which allows for placement of freestanding signs up to 15 feet in height. The applicant has proposed freestanding signage up to approximately 41 feet above-grade for the purpose of identifying the main entries to the shopping center. A decision for action on the proposed development shall be based upon the approval criteria listed in Development Code Section 40.80.15.4.C.

Associate Planner Liz Shotwell observed that the Beaverton Mall, which is to be renamed Cedar Hills Crossing, has been an asset to the City of Beaverton since the late 1960's, adding that staff would like to commend the applicant, *C.E. John Company*, and the international retail design expert, *Callison Architecture, Inc.*, for their community spirit in their effort to create a more pedestrian-friendly urban village. She presented the Staff Reports and described the Sign Variance requests pertaining to exceeding both the size and height allowed for signs within this zoning designation. She pointed out that staff acknowledges that the applicant has consulted with an internationally renowned architecture firm for the renovation of the mall, although an evaluation of the request for conformance with the approval criterion would not allow staff to make a recommendation to the Board of Design Review based only upon the merit of the firm. Emphasizing that the merit of the applicant's consultant is not applicable to the approval criterion for a Sign Variance, she referred to a Memorandum, dated November 14, 2002, that had been distributed prior to the hearing that identifies the approval criterion for a Sign Variance, noting that it is important to note that in order to grant such a request, the applicant must demonstrate that all six approval criterion have been met. Referring to Development Code Section 50.30.1.E.3, which states that the applicant has the burden of proof on all criteria, she pointed out that it is staff's responsibility to objectively review the Variance requests submitted by the applicant, utilizing the policies adopted by the citizens of the City of Beaverton, followed by a recommendation to the Board of Design Review. She emphasized that the Board would be responsible to make the ultimate decision with regard to these requests, based upon the recommendations of staff, adding that a summary of staff's findings are identified on pages 23 and 24 of the Staff Report, adding that staff had determined that all six criterion have not been met by the applicant. Concluding, she recommended denial of both applications and offered to respond to questions.

APPLICANT:

MARK PERNICONI, representing *C .E. John Company*, on behalf of the applicant, introduced himself, Paul Makowicki and Anne Marie Brintnall, both of whom represent *Callison Architecture, Inc.*, and Gary Rommel, representing *The Rommel Architectural Partnership, LLP*. He discussed the history of the proposal and provided a power point presentation illustrating the project, including a new activity area, a plaza, and an entry into the food court. Observing that the project involves a three-part presentation, including a Conditional Use Permit and the two Variances, he pointed out that the conditional use has been granted. He described the justification for the proposed redevelopment, emphasizing that this redevelopment is critical to the success of the interior mall, which consists of local shop and local vendors, adding that this street is more than a key presence, but the most important retail street within the City of Beaverton. He pointed out that the predecessors who had originally developed this mall had failed miserably simply because people are unaware of what is available there, adding that they are aware of *Winco* and *Old Navy* but are not familiar with the interior mall.

PAUL MAKOWICKI, representing *Callison Architecture, Inc.*, introduced himself and Lead Designer Ann-Marie Brintnall, explained that the applicant is attempting to recreate the shopping center to feel as if it is part of the Northwest and the Beaverton community. Pointing out that many of the malls developed in the late 1960's and 1970's were fairly generic and anonymous in nature, he noted that they had all been similar in appearance. Observing that the applicant intends to create a mall that is an asset to both the community and the client, adding that this would provide a place where people would want to go or gather and establish what he referred to as a village experience. He mentioned that the plan is an attempt to vary the architectural mass and form, as well as the color and materials, to create a more distinctive store identity, adding that the result would be more individual buildings along a street frontage, rather than one monolithic building.

ANN-MARIE BRINTNALL briefly described the process for determining the dimensions and scale of the signage for the project and provided illustrations depicting the appearance of the proposed development and sign.

Mr. Makowicki pointed out that the illustrations basically identify and illustrate the relative scale of the proposal, emphasizing the importance of providing visual cues to access the mall.

Ms. Brintnall noted that it is critical for a customer to have a clear understanding with regard to the entry to the interior mall.

Mr. Paul discussed the location of entry doors in relation to the front façade of the mall.

Ms. Brintnall explained that the proposal provides for an outdoor seating plaza, in an attempt to generate some activity along the sidewalk edge, adding that the entry structure occurs at the top of the stairs, leading through a trellis and into the mall interior.

Mr. Makowicki expressed his opinion that the issue involves wall signage versus other types of signage, and called attention to the scale of the signs on *Best Buy* and *GI Joe*.

Observing that he would like to discuss the applicant's arguments with regard to the requests for Variances, Mr. Perniconi expressed his opinion that this involves two special locations within what he referred to as a unique project. He explained that owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the requirements of this Ordinance would cause undue hardship. Pointing out that the Board of Design Review does have the authority to grant Variances from the regulations imposed by the Sign Ordinance, he emphasized that two main issues are involved, the first being whether the entry structures are actually freestanding signs, adding that if they are not, no Variance issues exist and only conforming wall signs on the entry signs into the mall are

involved. He pointed out that if it is determined that these are freestanding signs, there is adequate evidence indicating that the Variance criteria have been met.

Mr. Perniconi expressed his opinion that this has only become an issue because either Community Development Director Joe Grillo or staff does not like this design, emphasizing that they had actually made this statement. He pointed out that although Mr. Grillo has this option, the applicant's dilemma involves whether to accept this input rather than input from individuals who understand retail design. Emphasizing that the applicant is making a significant investment into this mall, he pointed out that because the mall has not been effective in the past, the current situation involves a choice between accepting a poor design in order to meet the Sign Code, and fighting for appropriate design. Observing that the purpose of the Board of Design Review is to encourage good design, he emphasized that the approval of a Variance involves an isolated decision that would not create a legal precedent.

Referring to the definition of a freestanding sign, Mr. Perniconi pointed out that a freestanding sign partially involves the display and support of the sign. He suggested applying what he referred to as the "Quack Test", observing that this implies that if it looks like a duck and quacks like a duck, it must be a duck. Agreeing that this is appropriate logic, he noted that while these structures might appear to be freestanding signs, they do not quack like a freestanding sign, adding that some structures that appear to be freestanding signs, such as water towers or churches with crosses, also serve other functions. He emphasized that these structures serve functions other than that of holding up signs, pointing out that the applicant is not requesting a blanket approval to exceed the height limit or square footage of these signs through this Variance process.

Mr. Perniconi noted that while he is aware that the application does not comply with the height and square footage requirements for freestanding signs, Chapter 90 of the Development Code only describes the physical attribute of a freestanding sign as for the purpose of displaying and supporting the sign. He emphasized that this section mentions neither the proximity of the sign to the street, nor the specificity or lack thereof of the location of the sign anywhere along the street, nor the fact that freestanding signs might have functions other than the display and support of the sign, emphasizing that perhaps these are not actually freestanding signs.

Observing that he has driven everywhere throughout the City of Beaverton, Mr. Perniconi pointed out that he is unaware of any freestanding sign located at any location other than the street front. Noting that these signs are located along the street, he emphasized that because they are limited by height and size, they do not function in any other location. He explained that these signs would not work at any location other than the entry to the mall, adding that they serve that specific purpose and are useless anywhere else. He pointed out that the entry structures serve multiple purposes, including identification of the mall entrance, the portal

into the mall, and the separation between parking areas and retail and activity areas.

Pointing out that he has no intention of boring members of the Board of Design Review with approval criteria, Mr. Perniconi stated that although staff had found a way to deny all six applicable approval criteria, the rebuttal submitted by the applicant meets all six criteria. Emphasizing that this issue involves staff versus the applicant, he noted that he prefers not to become confrontational, adding that this is the only interior mall of any consequence within the City of Beaverton and one of the top six or seven interior malls in the entire Portland Metro area. Noting that this is not a traditional mall or a traditional box center, he explained that this is a mix of both, and clarified the unique signage requirements involving an interior mall, including the inability to display their storefronts or signage to the outside world. He pointed out that staff is incorrect in their assumption that this mall has anchor tenants, adding that the only larger store actually connected to this mall is *Emporium*, which he does not consider an anchor tenant.

Mr. Perniconi provided an illustration of the leasing plan for the interior mall, adding that the only portions of the interior mall with any frontage whatsoever involves only four tenants. He expressed his opinion that the classification of freestanding sign is an overly strict interpretation, primarily due to similarities in physical appearance, adding that he considers this to be a misinterpretation of the Development Code and that these provisions do not adequately address every situation. He pointed out that although the mall involves 36 acres and nearly 100 various shops, the same sign code applies to a *Taco Bell*, which is only a 2,500 square foot building on ¼-acre site, emphasizing that this same code should not and can not effectively address every situation.

Referring to the criterion of pecuniary hardship and inconvenience, Mr. Perniconi pointed out that it would be far less of an expense to create a conforming sign than the entry structures proposed by the applicant, adding that this Variance process has been both time-consuming and costly.

Mr. Perniconi discussed the criterion involving detrimental to the public welfare, noting that granting this Variance would allow the permitted use of retail sales to continue in the interior mall, adding that this is a benefit to the community. Expressing his opinion that a retail mall is the best use of this site, he suggested the possibility of turning the site into a Flea Market similar to that on McLoughlin Boulevard in Portland.

Emphasizing that the proposed structure was never intended by the applicant to be considered a freestanding sign, Mr. Perniconi apologized for the fact that it had been interpreted in that way, necessitating this hearing. He pointed out that while this mall provides employment for approximately 400 to 500 individuals, it is unlikely that another facility would locate at the site that would provide this

amount of jobs, adding that this is not an insignificant structure. Concluding, he offered to respond to questions.

Ms. Antonio questioned whether any design change could potentially preserve the purpose of these large signs, specifically directing shoppers to the entry of this mall while eliminating the ambiguity of whether or not the signs are actually freestanding signs.

Ms. Brintnall responded that this is not possible, especially since the actual entry into the mall is recessed approximately 60 feet, adding that any sign at that point would be difficult to see both from Cedar Hills Boulevard and the parking lot.

Mr. Makowicki stated that while from a pedestrian scale, specifically walking along the sidewalk, this would be feasible, adding that from a visibility standpoint for an individual driving in a vehicle on Cedar Hills Boulevard, this would not be visible from a vehicle.

Chairman Straus commended the applicant for a well-prepared presentation, adding that he has been less than a fan of the current Sign Code for almost the entire 17 years that he has served on the Board of Design Review. Noting that he is not certain whether the newly adopted Development Code has been revised appropriately, he pointed out that this application must appropriately address both pedestrian scale and what he referred to as monumental scale, in order to be visible from the desired point of view. Observing that he accepts the premise that this is an entry structure, he requested clarification of whether this structure would be this same shape and size if visibility of signage were not the primary purpose. He discussed the issue of signs that are usable as entries versus entries that are usable as signs, adding that staff appears to be relying upon that subtle difference as their primary premise for their recommendation for denial. Observing that he understands staff's concern, he noted that he has been attempting to convince staff for many years that signage can not be a fixed size and height issue determined within a vacuum, adding that it is necessary to relate to the readability of the sign. He pointed out that it is also necessary to consider the speed of traffic traveling past, the distance from the individual viewing the sign, and the amount of time this individual has to react to what he has observed in order to safely turn into a driveway. Noting that staff has never found language that would appropriately address this issue, he expressed his opinion that while the applicant is attempting to provide a design that makes sense with regard to the existing facility, other elements make it difficult not to consider this structure to be a freestanding sign.

Mr. Perniconi advised Chairman Straus that the applicant had made every effort to find another solution to this issue, emphasizing that every other option involved contrived solutions to create poor architecture in order to accommodate what he considers to be a flawed Development Code.

Ms. Shipley questioned whether the applicant had considered a different type of structure other than that of the two poles.

Ms. Brintnall explained that the two poles had been selected because it unites itself to the trellis component, which connects itself back to the building, and advised Chairman Straus that there are other columns that extend back in line with those supporting the structure.

Chairman Straus pointed out that many of these options involve contrivances, adding that it is not his responsibility to attempt to determine how the applicant can meet the Development Code and expressing his opinion that this document sucks. He requested clarification of staff's interpretation of this application as involving a freestanding sign as opposed to a structure that happens to have a sign attached.

Ms. Shotwell stated that staff concludes that based upon freestanding versus wall signs, the architecture of the sign is not integrated into the building itself, but is a freestanding structure, it is not supported by any aspect of the building and would not be able to be defined as a wall sign for that reason.

Chairman Straus questioned what would happen with regard to the proposal for an open air type structure with columns, noting that he is basically referring to a trellis type of structure, observing that staff is indicating that no sign of any kind would be allowed upon this structure, unless it conformed to certain sizes.

Ms. Shotwell stated that this might be the case if it were primarily for the purpose of signage, adding that it would simulate the towers of the existing mall. She explained that those were given sign permit approval and were considered freestanding signs. She described a structure containing signage that is not considered a freestanding sign, noting that an example would be a canopy such as a drive-through for a US Bank or a canopy for a gas station, and explained that these structures include both walls and roofs.

Chairman Straus questioned whether signs of that size and height with no graphics would be considered acceptable under the Development Code.

Ms. Shotwell noted that these could potentially be considered architectural features, adding that the definition of a sign includes any lettered or pictorial device designed to inform or attract attention and that it is possible for this lettered or pictorial device not to be integrated into the architectural features.

Chairman Straus expressed his opinion that staff's only objection is that there are words on the surface of this structure, adding that there is no issue with the scale of the structure itself.

Ms. Shotwell clarified that the applicant has submitted two separate requests for Variances, one involving the size and one with regard to the height.

Chairman Straus noted that these requests for Variances are based upon the premise that the request actually involves signs, questioning whether the Development Code would permit these structures without any wording.

Ms. Shotwell stated that without the wording, these structures would be considered architectural features that the applicant could place on the site, adding that these architectural features would then be subject to the Design Review process.

Chairman Straus emphasized that the only issue that is being debated is whether the applicant should be permitted to install letters on that surface.

Ms. Shotwell stated that the surface has not been approved by the Design Review application because it was considered part of the sign.

Chairman Straus questioned the feasibility of holding a wall panel up in the air on a couple of uprights and installing a wall sign on the wall panel.

Ms. Shotwell stated that the Board of Design Review would have the discretion to evaluate the wall design if this were determined to be a wall sign.

Mr. Straus stated that this just points out how stupid the damn Development Code is.

Mr. Sparks observed that in the example that had just been provided, it would not be permitted because it would extend above the roof, adding that this would then be considered a roof sign.

Chairman Straus stated that he disagrees with Mr. Sparks' comment entirely, adding that he has participated in this particular debate on approximately ten occasions. Referring to Mr. Osterberg as the former *Sign Guru of the City of Beaverton*, he observed that he had presented approximately 200 signs to the Board of Design Review in a period of a year or two, adding that he has reviewed every damn sign in the City of Beaverton. He pointed out that a sign is not considered a roof sign unless it is actually mounted on top of a roof.

Mr. Sparks advised Chairman Straus that this is incorrect, emphasizing that any wall sign projecting above the roof is considered a roof sign.

Expressing his disagreement with Mr. Sparks, Chairman Straus mentioned a project involving a *Taco Bell*, which included a roof eave that ran through a wall that extended up to another roof above that, adding that at that time, staff was attempting to determine that this wall sign was a roof sign when it was not. He explained that this sign was mounted on a wall, which is a vertical surface, adding

that the fact that there are other roofs or structures around this wall sign is completely inconsequential.

Mr. Sparks stated that this is true if Chairman Straus is referring to a parapet wall, adding that this is permitted through the Development Code.

Chairman Straus stated that he has reached the end of his rope with regard to these issues, adding that if he is not allowed to work this out with staff, he would have objections to sign interpretations at every meeting. Emphasizing that the Development Code is stupid, plain and simple, he pointed out that he has been listening to it for 17 years and it has not gotten any smarter. Observing that he is not attempting to criticize staff in their attempt to interpret what is available, he mentioned that this document is flawed. Noting that the Board of Design Review does not have the authority to change the Development Code, he stated that they have been requested to evaluate whether the applicant's proposal is reasonable with regard to certain approval criterion. He expressed his opinion that this issue involves a question of how one wants to twist language, and questioned whether it is the City of Beaverton's objective to attempt to provide assistance for people to meet their goals or to find every possible way to deny their requests, noting that there is no attempt to help an applicant find alternatives that are acceptable. He pointed out that if the Development Code is not changed, it is necessary to provide a method to creatively review what is proposed to make common sense to those who have to deal with it.

Chairman Straus stated that the applicant has not proposed anything outrageous, adding that the intent of the original sign code was to avoid visual clutter along the roadways, emphasizing that this proposal does not deal with a freestanding sign at the roadway or visual clutter. He explained that this addresses features that were intended to be integrated into the building design, with different materials than utilized in other parts of the building because that is what is necessary to define the entrance, adding that this would be accomplished through architecture and signage, which is good. He noted that regardless of the applicable approval criteria, the applicant's proposal is both reasonable and appropriate, adding that he sees their perspective with regard to applicable criterion much clearer than that of staff. Observing that the Sign Code should be debated at another time, he indicated that it is necessary to focus on tonight's issues, adding that it should not be necessary for the applicant to go to such great lengths to accomplish a reasonable goal, and questioned whether staff has any further comments with regard to these applications.

Mr. Sparks indicated that Ms. Shotwell has responded appropriately to the issues.

PUBLIC TESTIMONY:

No member of the public testified with regard to this application.

The public portion of the Public Hearing was closed.

Mr. Beighley stated that he partially agrees with Chairman Straus' comments, adding that he is concerned with potentially walking a fine line with respect to how this issue has been treated. He expressed his opinion that in a way, this is part of the infrastructure, with the utilization of different materials to tie the entire project together. Observing that the proposal has been done with good taste, he pointed out that there are a lot of people who don't actually care what happens with regard to this proposal, adding that they are not in attendance.

Ms. Shipley referred to the objection to the size of the sign, expressing her opinion that it could not be smaller and remain in scale with the other signs in the area. She mentioned that it would not be possible to discern the difference from the street, adding that it would blend in with the mass of the building. She pointed out that in her opinion, a freestanding sign would be located separately from the building, rather than included as a part of the building design as this sign is proposed.

Ms. Antonio concurred with Ms. Shipley's statements, adding that the purpose of sign regulations is to reduce visual clutter along roadways. Observing that she would like to approve both applications, she questioned whether it is possible.

Mr. Osterberg suggested that the applicant has provided two basic points, adding that the issue involves whether this proposal constitutes a freestanding sign, and if it is a freestanding sign, whether it meets applicable criteria for the approval of a Variance. He explained that the Planning Director has the authority to make the initial determination, adding that this has already been done.

Chairman Straus questioned whether the Board of Design Review is obliged to accept the Planning Director's decision.

Mr. Osterberg stated that technically, the Board of Design Review is unable to overturn a Planning Director's determination, adding that staff understands that members of the Board of Design Review would like to comment with regard to testimony provided on this issue. Noting that members of the Board have the right to state their opinion, he observed that even though they might feel that this issue involves a wall sign, rather than a freestanding sign, because the Planning Director had determined that this is a freestanding sign, staff urges members of the Board to make specific findings with regard to the Variances, specifically whether applicable criteria with regard to a Variance have been met.

Chairman Straus expressed his concern with imposing a condition that does not apply specifically with any particular category, expressing his opinion that this is likely why the Planning Director had been in the position of making this determination. He pointed out that if it had been obvious that this request involved specifically a wall sign or freestanding sign, this type of determination would not

have been necessary. He suggested the possibility of the Board of Design Review requesting a consideration of a PDI, adding that this might involve a continuance at the request of the applicant. He mentioned that it might be feasible to create a new signage category to address issues or applications that do not fit in with any existing categories, expressing his opinion that this issue should be on the table for discussion.

Mr. Sparks stated that the Board of Design Review possesses the ability to interpret the Development Code insofar as the approval criteria are concerned, emphasizing that staff does not ask either the Board or the Planning Commission to interpret this Development Code in terms of what it is, unless it involves a PDI. He expressed his opinion that the Board had characterized it incorrectly in that the Planning Director had interpreted the Development Code to refer to this as a freestanding sign. Emphasizing that staff had not interpreted anything, he pointed out that they had reviewed the definition of a freestanding sign and determined that this application meets this definition of a freestanding sign.

Chairman Straus requested clarification of who is in a position to challenge a decision of the Planning Director.

Mr. Sparks clarified that the applicant is in the position to challenge a decision of the Planning Director by requesting a PDI, adding that this particular applicant had been advised of a variety of alternative options for this proceeding.

Chairman Straus pointed out that the applicant has also proposed the removal of two structures that are similar in nature to the two new structures that have been proposed, expressing his opinion that this proposal would not basically increase any impact in this area. He pointed out that he is looking for a way to approve these applications, expressing his opinion that staff does not have any interest in participating in this decision.

Mr. Sparks noted that staff's position on this proposal is clarified within the Staff Reports, adding that in order to accomplish an approval, the Board must make findings based upon the applicable approval criteria. He mentioned that the applicant has provided information in his visual presentation with regard to this criterion, adding that the Board has the option of relying upon or augmenting that information.

Mr. Naemura stated that Mr. Sparks' reference to the slides utilized in the applicant's presentation suggests that the Board's tendency to rely upon that point of view would indicate that those specific materials constitute the basis for the Board's findings and decision.

Mr. Beighley **MOVED** and Ms. Antonio **SECONDED** a motion to approve VAR 2002-0005 -- Cedar Hills Crossing Entry Sign – Size, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon

the applicant's exhibits contained within the Staff Report dated November 7, 2002.

The question was called and the motion **CARRIED**, by the following vote:

AYES: Antonio, Beighley, Shipley and Straus.
NAYS: None.
ABSTAIN: None.
ABSENT: Doukas and Nardozza.

Mr. Beighley **MOVED** and Ms. Shipley **SECONDED** a motion to approve VAR 2002-0009 – Cedar Hills Crossing Entry Sign – Height, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the applicant's exhibits contained within the Staff Report dated November 7, 2002.

The question was called and the motion **CARRIED**, by the following vote:

AYES: Antonio, Beighley, Shipley and Straus.
NAYS: None.
ABSTAIN: None.
ABSENT: Doukas and Nardozza.

Mr. Sparks advised the applicant that any slide materials or other documentation or information presented that differs from the original packet must be submitted to be included in the record.

MISCELLANEOUS BUSINESS:

Mr. Sparks discussed the upcoming schedule, observing that with the cancelled meetings near the holidays, a number of items have been scheduled for January 2, 2003, and requested clarification of which members of the Board would be available in order to determine whether a quorum would be present.

Following a brief discussion, several members of the Board indicated that they would not be available on January 2, 2003, and it was determined that a quorum would not be available for that meeting.

Chairman Straus questioned the status of the meeting of December 5, 2002, and was advised that BDR 2002-0124 – US Bank @ SW Beaverton/Hillsdale Highway & SW Laurelwood Avenue is still scheduled, and that there has been an additional application for a new building and addition at the Round, which was scheduled for that meeting but may be continued at that time.

Mr. Sparks pointed out that at this time, nothing is scheduled for December 12, 2002, or December 19, 2002.

The meeting adjourned at 10:16 p.m.